

MINUTES
PROTECTION & WELFARE COMMITTEE
Monday, April 7, 2014
City Hall, Room 207
5:00 p.m.

MEMBERS PRESENT: Ald. Steuer, Ald. Boyce, and Ald. Tim De Wane
MEMBERS EXCUSED: Ald. Brunette
MEMBERS ABSENT: None
OTHERS PRESENT: Jim Mueller—Asst. City Attorney, Ald. Wiezbiskie, Ald. Tom De Wane, Capt. Galvin, and other interested parties.

NOTE: Item #10 was taken before Item #4

1. Roll Call.

Ald. Steuer, Ald. Boyce, and Ald. Tim De Wane were present.

2. Approval of the Agenda.

A motion was made by Ald. Boyce and seconded by Ald. Tim De Wane to approve the agenda. Motion carried.

3. Approval of the minutes from the March 24, 2014 meeting.

A motion was made by Ald. Boyce and seconded by Ald. Tim De Wane to approve the minutes from the March 24, 2013 meeting. Motion carried.

4. Request by the owners of Los Brasas, 418 S. Military Avenue, to hold an outdoor event on May 3, 2014. (Held up from the March 24, 2014 meeting)

Atty. Mueller stated this item was held up until they could provide more information relating to the outdoor event.

Ald. Steuer opened the floor without objection.

Aidee Lopez, 418 S. Military Avenue, appeared and distributed maps of how they plan to secure the parking lot. Ms. Lopez stated a 20 x 20 tent will be erected in their assigned parking spot with fencing around it. When asked where patrons will be parked during this event Ms. Lopez stated that only their business and the one next to them, the Mayflower, will be open that day so people can park in the slots assigned to other businesses.

Ald. Tom De Wane stated that they should get permission from the other business owners to allow parking in their slots. Ms. Lopez stated that she believes her mother is working on this.

Capt. Galvin inquired if there will be enough ingress and egress allowed for the vehicles moving through once the tent was set up and if there will be security at the tent entrance. Ms. Lopez stated there will be three to four bouncers in the tent that will be identifiable in marked outfits indicating they are employees. Wristbands will be given at the point of entrance to the tent.

Ald. Steuer stated he would like the neighboring businesses, as well as the landlord of the property, to give their definite permission regarding their parking slots. Capt. Galvin agreed and stated the GBPD would like written permission brought to the City Clerk's office before the next Common Council meeting on April 15, 2014.

Atty. Mueller stated that for the record he would like to clarify that Los Brasas is asking for an extension of their alcohol license in order to serve alcohol in the tent and that there will be music until 10 p.m. Ms. Lopez affirmed this.

A motion was made by Ald. Tim De Wane and seconded by Ald. Boyce to approve, contingent on approval the landlord neighboring businesses, the request by the owners of Los Brasas, 418 S. Military Avenue, to hold an outdoor event on May 3, 2014 with the approval of the proper authorities. The approval of the request is subject to complaint. (Held up from the March 24, 2014 meeting) Motion carried.

5. Request by the owners of Los Magueyes LLC, 1053 Velp Avenue, to hold an outdoor event on May 5 and to add a permanent patio in the near future.

Atty. Mueller asked that the Committee only take action on the outdoor event today, and that if the applicant wishes to extend their license to include an outdoor patio they need to amend their license and return with this request.

Ald. Steuer opened the floor without objection.

Nobody appeared for this item.

Atty. Mueller stated that he had questions he wanted clarified and without the applicant being here, and the fact they withheld information regarding this event, he would suggest this item being received and placed on file. Atty. Mueller stated he will have a Community Police Officer contact the owners to inform them of their option to appear before the City Council meeting as this appears to be a time sensitive subject.

A motion was made by Ald. Tim De Wane and seconded by Ald. Boyce to receive and place on file the request by the owners of Los Magueyes LLC, 1053 Velp Avenue, to hold an outdoor event on May 5, and to receive and place on file the request to add a permanent patio in the near future. Motion carried.

6. Application for a "Class B" Combination License by The Public Haus, LLC at 813 6S. Broadway. (Transfer from BS & KS Enterprises)

Atty. Mueller stated that it is the intent of the City Attorney's Office and the GBPD to eliminate some of the liquor licenses in the South Broadway area. However, since this is a transfer they don't have any objections.

Capt. Galvin stated they met with the applicants and have a signed security plan and the GBPD do not have any objections.

A motion was made by Ald. Tim De Wane and seconded by Ald. Boyce to approve the application for a "Class B" Combination License by The Public Haus, LLC at 813 6S. Broadway with the approval of the proper authorities. (Transfer from BS & KS Enterprises) Motion carried.

7. Application for one of nine available "Class B" Combination License by Gasoline Bar LLC, at 709-711 S. Broadway.

Atty. Mueller reported that this is a new application at this location and the City Attorney's Office recommends denial based on the GBPD recommendations.

Capt. Galvin reported that this location has a history of multiple large disturbances and liquor law violations. The existing parking lot has inadequate lighting which creates a dangerous environment for patrons and police, and when the lot was full patrons would park unauthorized on City owned property.

The GBPD has met with the building owner, Ron Smits, on several occasions to discuss plans for the building and explained that they do not want to see any more bars in this area as it is already saturated with bars. They suggested leasing to a different type of businesses in this building such as a restaurant/bar .

In November 2013, Mr. Smits stated he had a prospective tenant that wanted to open a restaurant. GBPD became aware of remodeling in the building and when they stopped to inquire the reason for it they were told the remodeling was for a nightclub. When Mr. Smits was contacted for confirmation he stated that it was going to be for an "automotive" themed bar that serves food. In December 2013, an email was received at the GBPD from Mr. Smits' business that he forwarded from his employee, Ashley Conant, who has a criminal history including felony convictions for manufacturing/delivering cocaine, forgery and bail jumping.

In January 2014 GBPD again contacted the applicant, Reza Nikkhakian, asking for the security plan. A few days later Mr. Nikkhakian; his attorney, Michael Marquette; Capt. Bongle, Officers Schaden and Wickman participated in a conference call where Mr. Nikkhakian stated the business will not be a restaurant, just a bar. Mr. Nikkhakian reported that he has no experience in

operating a bar but he has employees that are experience and licensed. A criminal background check on one of the employees Mr. Nikkhakian mentioned, Misty Bero, revealed that she was arrested for delivery of Ecstasy and served 60 months on probation. Mr. Nikkhakian stated that Ashley Conant would be a bartender.

March 5, 2014 Officer Schaden contacted Atty. Marquette informing him the GBPD still hasn't received a security plan. Atty. Marquette emailed a copy of the plan; however the license stipulation page was not included. On March 12, 2014 Mr. Nikkhakian was contacted and requested to provide the license stipulation page. On March 17, 2014 Mr. Nikkhakian left a message requesting an immediate inspection of the property in order to get on the March 18, 2014 Protection & Welfare Committee agenda. On March 20, 2014 an inspection revealed the lights on the exterior of the building were still inadequate. Mr. Nikkhakian agreed to add additional lighting and at that time provided a copy of the license stipulation. Mr. Nikkhakian also stated that Ashley Conant will not be an employee of the business.

The GBPD reviewed the plans and recommend denial for the following reasons: the applicant was contacted numerous times to submit the required documents; he choose employees with multiple drug convictions; he admitted he doesn't have any experience operating a bar; the location and past reputation of the bar creates a high-risk situation for troublemakers to return to this area; and the business was originally represented as a restaurant/bar and now it's just going to be a bar.

Atty. Mueller reminded the Committee that any past criminal occurrences at this location cannot be held against the applicant.

Ald. Steuer opened the floor without objection.

Atty. Michael Marquette, 1830 W. Mason Street, Suite 3, appeared and stated that Reza Nikkhakian is the sole owner of Gasoline Bar LLC. Atty. Marquette reiterated that Mr. Nikkhakian cannot be held responsible for any activity that occurred previously at this address. Atty. Marquette read a letter he received from the property owner Ron Smits. The letter stated that in the past when Mr. Smits was made aware of the criminal activity occurring he personally drove the liquor license holder to City Hall to surrender her license and then had her business removed from his property. Mr. Nikkhakian carefully screens his renters and determined that Mr. Nikkhakian is a good business owner. The building has historically operated a tavern out of it for nearly 100 years and he would like this tradition to continue and asks the Committee to give Mr. Nikkhakian a chance.

Atty. Michael Marquette stated there was confusion whether Mr. Nikkhakian was to be contacted for an appointment by the GBPD or if it was his responsibility to

contact them. Capt. Galvin replied that the applicant was contacted numerous times, starting in December to turn in a signed business plan; an incomplete business plan was eventually turned in and again the applicant was contacted numerous times to submit the signed license stipulation. Capt. Galvin states the GBPD now have the completed application and it meets their specifications.

Atty. Michael Marquette stated his client put approximately \$25,000 into remodeling this business because he believed he would receive a liquor license. The security plan outlines cameras already installed that retains video recordings for two weeks; the contractor will install LED exterior lighting. There will be pizza and cold sandwiches available, as well as the ability to order food from Mr. Nikkhakian gyro restaurant or patrons can take a shuttle to the restaurant. The bar will have an 'automotive' theme and in the future they would like to have car shows at this location.

Atty. Mueller inquired if they are properly screening their employees, and requested Mr. Nikkhakian to send a list of his employees to Capt. Bongle. Atty. Mueller stated at this time the GBPD has not signed the license stipulation because of their recommendation to deny; however if this Committee does approve the application he would see that this stipulation is executed.

A motion was made by Ald. Tim De Wane and seconded by Ald. Boyce to approve, contingent on execution of all required documents, the application for one of nine available "Class B" Combination License by Gasoline Bar LLC, at 709-711 S. Broadway. Motion carried.

8. Appeal by Shellie Brice to the denial of her Public Vehicle Operator License.

Atty. Mueller stated the City Attorney's Office recommends denial based on the applicant's arrest and conviction record which substantially relates to the licensed activity that includes a misdemeanor in 2012 for a second OWI; a 2010 forfeiture for a first OWI; a 2008 forfeiture for Disorderly Conduct; and a 2005 misdemeanor for Battery. The City Attorney's Office and the GBPD have concerns due to the multiple OWI charges of allowing this individual to drive and being in charge of a cab that may have intoxicated individuals as passengers.

Ald. Steuer opened the floor without objection.

Shelly Brice, 623 N. Maple Avenue, appeared and stated she did drink a lot in the past due to personal problems, but she no longer drinks. Ms. Brice stated she attended an alcohol course for a year after receiving her second OWI. Ms. Brice stated she didn't know what the disorderly conduct charge was for. She stated the owner of the cab company was here with her earlier to show his support, but had to leave. Ms. Brice stated the owner of the cab company, Jerry Van Straten, needs cab drivers but the City keep denying his applicants.

Ald. Tom De Wane stated he spoke with Mr. Van Straten earlier in the hallway and Mrs. Van Straten stated that he was only aware of Ms. Brice having one OWI; and that this Committee keeps denying his applicants. Ald. Tom De Wane stated he informed Mr. Van Straten that individuals with an extensive criminal record will be denied and that he should look at applicants who don't have this type of history.

Discussion that followed centered on Ms. Brice providing documentation of her alcohol class and bringing in individuals who are in support of her or letters of recommendation.

A motion was made by Ald. Tim De Wane and seconded by Ald. Boyce to postpone until the next meeting the appeal by Shellie Brice to the denial of her Public Vehicle Operator License. Motion carried.

9. Appeal by Mary Bancroft to the denial of her Operator License.

Atty. Mueller stated the City Attorney's Office recommends denial based on the applicant's arrest and conviction record which substantially relates to the licensed activity which includes two forfeitures for underage consumption and disorderly conduct in 2009; three forfeitures for underage consumption in 2008 as well as a 2008 forfeiture for a minor in possession of tobacco and a 2008 forfeiture for depositing human waste. This is a high concern to the City Attorney's Office and the GBPD since Ms. Bancroft has a history of alcohol related charges and is applying for a license to serve alcohol; therefore denial is recommended.

Capt. Galvin stated the GBPD also recommends denial.

Ald. Steuer opened the floor without objection.

Mary Bancroft, 1232 St. George Street, appeared and stated all these charges are from when she was a troubled teenager years ago, and she is now a responsible mother and her life has have changed. She currently works two jobs and doesn't drink any more. She can provide documents from when she attended and passed an AOD classes. She needs the license to work at Bay Beach Shell because it's one of their requirements.

Ald. Steuer moved to return to regular business.

Discussion that followed focused on the age of the charges. Ms. Bancroft was encouraged to bring a letter of support from her employer to the Common Council meeting on April 15.

A motion was made by Ald. Boyce and seconded by Ald. Steuer to approve the appeal by Mary Bancroft to the denial of her Operator License. Motion carried.

10. Appeal by Lisa Mehlberg to the running at large citation and dangerous dog declaration.

Atty. Mueller informed the Committee that they do not have any jurisdiction over the citation itself, that will be handled in Municipal Court; however they can hear the appeal of the dangerous dog declaration. The procedure will be as follows: The Green Bay Police Department (GBPD) will outline their cause for the declaration; Sharon Hensen, the Green Bay Animal Control Officer will present her evidence; the dog owner will present her evidence; and interested parties can then present their evidence. When all the evidence has been discussed, the Committee can discuss what they heard before making their decision. Atty. Mueller informed them they can ask him at any time for legal advice concerning this situation.

Ald. Steuer opened the floor without objection.

Sharon Hensen, appeared and stated there are many documented calls to this address dating back to 2009 that include numerous complaints about dogs running loose, barking complaints, dogs going after children, utility workers and other dogs, and loose dogs defecating in neighboring yards. There are six documented reports regarding Louis attacking other dogs or people. Numerous citations have been given out for this dog, including one for biting a child.

Ms. Hensen read a letter from Jessica Boyles that stated she let her dog out one night and Ms. Mehlberg's dog, Louis, jumped over the fence dividing their yards and attacked it. When the dog owners heard her screaming they yelled for Louis to come back inside.

Ms. Hensen stated that some of the citations were issued by the GBPD, instead of Animal Control, and she wasn't aware of all of them until she did a background check on these calls. They have tried working with Ms. Mehlberg, and on June 6, 2013 Ms. Mehlberg relinquished the dog to the Humane Society. Ms. Mehlberg reclaimed the dog the next day, and a few days later it was running loose again. On June 28th the dog attacked another dog. Ms. Hensen stated that the yard is fenced in; however the dog isn't tethered to anything and can easily go over the fence, or through the gate which is rarely kept closed. Due to the documented history of this dog, she would like to have it declared dangerous.

Lisa Mehlberg, 1357 Chicago Street, appeared and thanked Sharon and the Committee for hearing her out. Ms. Mehlberg stated that her dog, Louis, was born in 2010; therefore the citations Sharon mentioned aren't all for Louis. Atty. Mueller clarified only citations issued to this particular dog are relevant at this time. Ms. Mehlberg stated that on March 25, she was at work and the dogs were secure inside the home and not running outside; she handed over a letter from her supervisor stating she was at work.

Ms. Mehlberg agreed the dog can jump over the front fence; she has tried keeping him in the back yard where he can't get over the fence. Ms. Mehlberg claimed she wasn't aware Louis had attacked Ms. Boyle's dog. She often takes him to the dog park for exercise and he has never tried to attack another dog. She plans to put a dog door leading out to the backyard so Louis won't have to be in the front yard any more. Ms. Mehlberg distributed a letter from one of her neighbors who state that although the dog does bark at them, they don't feel threatened by Louis. Ms. Mehlberg stated she was given a \$366 citation for a dog at large and was told she could either pay that or give up the dog. She decided to give the dog up and the next day went to the Humane Society to bring it food and toys and they told her she could have it back if she wanted, so she decided to pay the citation and keep the dog.

Ald. Steuer inquired what would happen to the dog if the Committee does declare it dangerous. Atty. Mueller stated the dog owner has to remove the dog from this municipality. Ald. Steuer asked Ms. Mehlberg if she considered having the dog attend obedience class. Ms. Mehlberg stated she did take him to an obedience class for two months, but he has a lot of energy. She has also considered installing an invisible fence. Currently the dog isn't living in the home and that leaves a huge gap for her.

Ms. Hensen stated that with invisible fences some dogs will risk the chance of being shocked to go after something and then they won't return to the yard because they know they will get shocked again when returning home. If they have a history of running loose she doesn't believe anything will deter them. Ms. Hensen stated that Ms. Mehlberg has a long history of dogs getting loose from the front yard; the owners are clearly not taking any responsibility for ensuring the dogs stay contained in their yard.

Atty. Mueller informed the Committee that the standard of review here is the prior conduct of the animal before the declaration was made, and that any future plans the owner has discussed should not be taken into account.

Chris Landry, 1369 Chicago Street, appeared and stated that he is also a dog owner and would be crushed if he lost his dog; however Ms. Mehlberg's dog often gets out and defecates in his yard. Mr. Landry reported that he rode his bike past the house one day and the dog jumped the fence and started running after him. Mr. Landry stated that Louis came into their yard one day and had a fight with their dog causing it to bleed, that's when they called Animal Control. He stated that Louis needs to be tethered when it's out in the front yard to prevent it from getting over the fence.

Mario Pace III, 1357 Chicago Street, appeared and stated that Louis plays well with other dogs. He agrees Louis does have a barking problem, but listens when they call for him.

Atty. Mueller read the definitions of “dangerous dog” and “menacing fashion” from Green Bay Municipal Code 8.105.

Ald. Steuer inquired if a dog was tethered in its front yard and made an attempt to attack would that be considered threatening; Atty. Mueller replied that it would be considered menacing behavior.

Ms. Hensen stated they try everything possible to work with the owner and not to declare a dog dangerous including the owner try shock collars, taller fences, or relinquish ownership. She does believe this dog is dangerous and its behavior may only get worse.

Ald. Steuer stated if Ms. Mehlberg could guarantee she could contain the dog in the yard it may sway the opinion of his recommendation.

Ald. Steuer closed the floor without objection.

Ald. Tim De Wane stated he would like Ms. Mehlberg to apply the suggestions she made such as installing an electric fence and installing a dog door leading to the backyard.

Discussion that followed included if this appeal was approved could any contingencies such as installing a fence be included in the approval. Atty. Mueller stated that according to the standard of review the Committee could either approve or deny this appeal without contingencies. If the contingency was violated, there is no recourse the City could take and this item would come before the Committee again.

Ms. Mehlberg stated she would do everything she stated she would do to keep the dog and promised the Committee she will leash him so he doesn’t get loose again.

Ald. Wiezbiskie stated he doesn’t believe in electric fences and the dog should be tethered or cabled when placed outside. He has a neighbor with one of those fences and the dog gets out all the time.

Ald. Steuer stated the Committee has to concentrate on whether they consider the dog as dangerous. Ald. Tim De Wane stated that even though the dog gets loose quite often; he doesn’t deem it as dangerous. Ald. Steuer stated he agrees with Ald. Tim De Wane. Ald. Boyce stated that he believe the dog is just one step away from being considered dangerous and wants the owner to keep that in mind, she’s walking a thin line right now.

Atty. Mueller reminded the Committee that they don’t have jurisdiction over the citation and recommends they word the motion to approve the appeal to the dangerous dog declaration only.

A motion was made by Ald. Tim De Wane and seconded by Ald. Steuer to approve the appeal by Lisa Mehlberg to the dangerous dog declaration. Motion carried.

Atty. Mueller thanked Ald. Boyce and Ald. Brunette for their service to this Committee and stated it has been a pleasure working with them. Ald. Steuer stated he concurs and that it has been an honor working with them.

A motion was made by Ald. Boyce and seconded by Ald. Tim De Wane to adjourn the meeting at 7:05 p.m. Motion carried.

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